

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE D. HISTORY, CULTURE, AND EDUCATION

CHAPTER 447. STATE ENERGY CONSERVATION OFFICE

Sec. 447.001. GOVERNANCE AND GENERAL AUTHORITY. The state energy conservation office:

(1) is under the direction and control of the comptroller;

(2) shall promote the policies enumerated in this chapter; and

(3) may act in any capacity authorized by state or federal law.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 7, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 4, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.002. INFORMATION; PROCEDURES AND RULES; MEASURES AND PROGRAMS. (a) The state energy conservation office shall develop and provide energy and water conservation information for the state.

(b) The state energy conservation office may establish procedures and adopt rules relating to the development and implementation of energy and water conservation measures and programs applicable to state buildings and facilities.

(c) A procedure established or a rule adopted under Subsection (b) may include provisions relating to:

(1) the retrofitting of existing state buildings and facilities with energy-saving or water-saving devices; and

(2) the energy-related or water-related renovation of those buildings and facilities.

(d) To the extent that the governor receives money appropriated for energy and water efficiency measures and programs, the governor, through the state energy conservation office, shall implement measures and programs that the state energy conservation office identifies as encouraging energy or water conservation by state government.

(e) A state agency shall implement an energy or water conservation measure or program in accordance with plans developed under Section 447.009.

(f) The state energy conservation office shall coordinate all water conservation-related activities with the Texas Water Development Board. The board shall assist the office in the development of all proposed water conservation and reuse requirements and provide training and expertise to the office regarding water conservation issues.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. The state energy conservation office is the state liaison to the federal government for the implementation and administration of federal programs relating to state agency energy matters. The office shall administer state programs established under:

(1) Part D, Title III, Energy Policy and Conservation Act (42 U.S.C. Section 6321 et seq.), and its subsequent amendments;

(2) Part G, Title III, Energy Policy and Conservation Act (42 U.S.C. Section 6371 et seq.), and its subsequent amendments; and

(3) other federal energy conservation programs as assigned to the office by the governor or the legislature.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.004. DESIGN STANDARDS. (a) The state energy conservation office shall establish and publish mandatory energy and water conservation design standards for each new state building or major renovation project, including a new building or major renovation project of a state-supported institution of higher education. The office shall define "major renovation project" for purposes of this section and shall review and update the standards biennially.

(b) The standards established under Subsection (a) must:

(1) include performance and procedural standards for the maximum energy and water conservation allowed by the latest and most cost-effective technology that is consistent with the requirements of public health, safety, and economic resources;

(2) be stated in terms of energy and water consumption levels that meet energy standards adopted by the state energy conservation office and that:

(A) achieve a 15 percent reduction in water use when compared to water use based on plumbing fixtures selected in accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486); or

(B) comply with water conservation standards published by the state energy conservation office;

(3) consider the various types of building uses; and

(4) allow for design flexibility, including allowing for certification under any high-performance design evaluation system approved by the state energy conservation office.

(b-1) A building to which this section applies must be designed and constructed or renovated so that the building achieves certification under any high-performance design evaluation system

approved by the state energy conservation office that:

(1) is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state;

(2) provides minimum requirements for energy use, natural resources use, and indoor air quality;

(3) requires substantiating documentation for certification;

(4) requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and

(5) encourages the use of materials or products manufactured or produced in this state.

(b-2) The state energy conservation office shall appoint an advisory committee to advise the office in selecting one or more high-performance building design evaluation systems to approve for use under Subsection (b-1). At least once every two years, the advisory committee shall review available high-performance building standards and make recommendations to the office. The advisory committee consists of:

(1) one individual appointed by the comptroller who represents the state energy conservation office and who serves as the presiding officer of the committee;

(2) eight individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees:

(A) a list submitted by the president of the Texas Society of Architects;

(B) a list submitted by the presidents of the Texas Council of Engineering Companies and Texas Society of Professional Engineers;

(C) a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General

Contractors, Texas Building Branch;

(D) a list submitted by the president of the Texas chapter of the American Society of Landscape Architects;

(E) a list submitted by the president of the Texas Chemical Council;

(F) a list submitted by the Texas State Building and Construction Trades Council;

(G) a list submitted by the president of the Texas chapter of the Urban Land Institute; and

(H) a list submitted by the chair of the Brick Industry Association;

(3) the director of facilities construction and space management appointed under Section [2152.104](#);

(4) one individual representing the Energy Systems Laboratory of the Texas Engineering Experiment Station of The Texas A&M University System;

(5) one individual representing a state agency that has a substantial ongoing construction program; and

(6) one individual representing the interests of historically underutilized businesses.

(b-3) A contract between a state agency and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies must provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the certification requirements of Subsection (b-1) is considered an additional service rather than a basic service. A governmental entity may not disallow the allocation of federal deductions to eligible design professionals authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

(c) Any procedural standard established under this section must be directed toward specific design and building practices that produce good thermal resistance and low infiltration and toward requiring practices in the design of mechanical and electrical systems that maximize energy and water efficiency. The procedural standards must address, as applicable:

(1) insulation;

- (2) lighting;
- (3) ventilation;
- (4) climate control;
- (5) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- (6) water-conserving landscape irrigation equipment;
- (7) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - (A) landscape contouring, including the use of berms, swales, and terraces; and
 - (B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
- (8) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
- (9) equipment for recycling or reusing water originating on the premises or from other sources, including treated municipal effluent;
- (10) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
- (11) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings;
- (12) special energy requirements of health-related facilities of higher education and state agencies; and
- (13) any other item that the state energy conservation office considers appropriate.

(c-1) The procedural standards adopted under this section must require that:

- (1) on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for potable and nonpotable indoor and outdoor water use be incorporated into the design and construction of:
 - (A) each new state building with a roof area

measuring at least 10,000 square feet; and

(B) any other new state building for which the incorporation of such systems is feasible; and

(2) rainwater harvesting system technology for potable and nonpotable indoor and outdoor water use be incorporated into the design and construction of each new state building with a roof area measuring at least 50,000 square feet that is located in an area of this state in which the average annual rainfall is at least 20 inches.

(c-2) The procedural standards required by Subsection (c-1) do not apply to a building if the state agency or institution of higher education constructing the building:

(1) determines that compliance with those standards is impractical; and

(2) notifies the state energy conservation office of the determination and provides to the office documentation supporting the determination.

(c-3) The procedural standards required by Subsection (c-1)(2) apply to a building described by that subdivision unless Subsection (c-2) applies or the state agency or institution of higher education constructing the building provides the state energy conservation office evidence that the amount of rainwater that will be harvested from one or more existing buildings at the same location is equivalent to the amount of rainwater that could have been harvested from the new building had rainwater harvesting system technology been incorporated into its design and construction.

(d) A state agency or an institution of higher education shall submit a copy of its design and construction manuals to the state energy conservation office as the office considers necessary to demonstrate compliance by the agency or institution with the standards established under this section.

(e) A state agency may not begin construction of a new state building or a major renovation project before the design architect or engineer for the construction or renovation has:

(1) certified to the appropriate authority having jurisdiction that the construction or renovation complies with:

(A) the standards established under this section; and

(B) the alternative energy and energy-efficient architectural and engineering design evaluation requirements under Sections [2166.401](#), [2166.403](#), and [2166.408](#); and

(2) provided to the appropriate authority having jurisdiction and the state energy conservation office copies of:

(A) each certification under Subdivision (1); and

(B) any written evaluation or detailed economic feasibility study prepared in accordance with Section [2166.401](#), [2166.403](#), or [2166.408](#).

(f) An institution of higher education may not begin construction of a new state building or a major renovation project before the design architect or engineer for the construction or renovation has:

(1) certified to the institution of higher education that the construction or renovation complies with the standards established under this section; and

(2) provided to the state energy conservation office a copy of that certification.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(50), eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 526, Sec. 8, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 5, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts, 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 856 (S.B. [982](#)), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1352 (H.B. [4](#)), Sec. 10, eff. September 1, 2009.

Acts 2007, 80th Leg., R.S., Ch. 1430 (S.B. [3](#)), Sec. 2.27, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 937 (H.B. [51](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1311 (H.B. [3391](#)), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 695 (H.B. [2781](#)), Sec. 1, eff. September 1, 2013.

Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS. Subject to applicable state and federal laws or guidelines, the state energy conservation office may:

(1) implement an energy or water efficiency project at a state agency; or

(2) assist the agency in implementing the project through an energy or water efficiency program.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 6, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.006. ADDITIONAL ENERGY AND WATER SERVICES. (a) The state energy conservation office may provide additional energy and water services, including:

(1) training of designated state employees in energy and water management, energy-accounting techniques, water-accounting techniques, and energy efficient and water efficient design and construction;

(2) technical assistance regarding energy efficient and water efficient capital improvements, energy efficient and water efficient building design, and cogeneration and thermal storage investments;

(3) technical assistance to the state auditor or a

state agency regarding energy and water management performance audits and the monitoring of utility bills to detect billing errors;

(4) technical assistance to a state agency regarding third-party financing of an energy efficient and water efficient capital improvement project; and

(5) other energy-related and water-related assistance that the office considers appropriate, if the assistance is requested by a state agency, an institution of higher education, a consortium of institutions of higher education, or another governmental entity created by state law.

(b) Using available state, federal, or oil overcharge funds, the state energy conservation office may provide technical assistance to a state agency or an institution of higher education in analyzing or negotiating rates for electricity or natural gas supplies from a locally certificated electric supplier, a natural gas supplier, or a state-owned energy resource, including a transportation charge for natural gas.

(c) A state agency or an institution of higher education may request the assistance of the state energy conservation office before negotiating or contracting for the supply or transportation of natural gas or electricity.

(d) A state agency or an institution of higher education with expertise in rate analysis, negotiation, or any other matter related to the procurement of electricity and natural gas supplies from a locally certificated electric supplier, a natural gas supplier, or a state-owned energy resource may assist the state energy conservation office whenever practicable. The attorney general on request shall assist the office and other state agencies and institutions of higher education in negotiating rates for electricity and other terms of electric utility service.

(e) Using available funds from any source, the state energy conservation office may assist a state agency, an institution of higher education, a consortium of institutions of higher education, or another governmental entity created by state law to further the goals and pursue the policies of the state in energy research as may be determined by the governor or the legislature. The office may

assist a state agency in implementing current federal energy policy.

(f) The state energy conservation office on request may negotiate rates for electricity and other terms of electric utility service for a state agency or an institution of higher education. The office also may negotiate the rates and the other terms of service for a group of agencies or institutions in a single contract.

(g) The state energy conservation office may analyze the rates for electricity charged to and the amount of electricity used by state agencies and institutions of higher education to determine ways the state could obtain lower rates and use less electricity. Each state agency, including the Public Utility Commission of Texas, and institution of higher education shall assist the office in obtaining the information the office needs to perform its analysis.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 6, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.008 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.007. ENERGY AND WATER AUDITS. (a) The state energy conservation office may audit a state-owned building used by a state agency to assist the agency in reducing energy and water consumption and costs through improved energy and water efficiency.

(b) Based on any audit performed under Subsection (a), the state energy conservation office may recommend changes to improve energy and water efficiency.

(c) Each state agency or institution of higher education shall review and audit utility billings and contracts to detect billing errors. Any contract with a private person to conduct the review or audit must comply with all applicable provisions of

Subchapter A, Chapter 2254, regarding professional services contracts. The contract may not be awarded on a contingent fee basis unless the governor determines that the contract is necessary, reasonable, and prudent.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 526, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 6, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.009 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.008. ENERGY-SAVING AND WATER-SAVING DEVICES OR MEASURES. (a) On approval by the state energy conservation office, a state agency that reduces its energy or water expenses may use any funds saved by the agency from appropriated utility funds for the purchase of an energy-saving or water-saving device or measure. For purposes of this section, "energy-saving or water-saving device or measure" means a device or measure that directly reduces:

- (1) energy or water costs; or
- (2) the energy or water consumption of equipment, including a lighting, heating, ventilation, air-conditioning system, or other water-using system, without materially altering the quality of the equipment.

(b) A state agency, in accordance with the recommendations of an energy or water audit, may purchase energy-saving and water-saving devices or measures from appropriated utility funds if the savings in utility funds projected by the audit will offset the purchase. The agency shall retain in its files a copy of the recommendation and repayment schedule as evidence of the projected savings.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 176, Sec. 1, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 526, Sec. 10, eff. Sept. 1,

1995; Acts 1995, 74th Leg., ch. 698, Sec. 7, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1206, Sec. 23, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.010 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Sec. 447.009. ENERGY AND WATER MANAGEMENT PLANNING; REPORTING. (a) The state energy conservation office shall provide energy and water management planning assistance to a state agency or an institution of higher education, including assistance to:

(1) the Department of Public Safety for energy emergency contingency planning, using state or federal funds when available; and

(2) each state agency or institution of higher education in preparing comprehensive energy and water management plans.

(b) The state energy conservation office shall prepare guidelines for preparation of the plan described in Subsection (a)(2) and develop a template for state agencies and institutions of higher education to use in creating the plan. Each state agency and institution of higher education shall set percentage goals for reducing the agency's or institution's use of water, electricity, transportation fuel, and natural gas and include those goals in the agency's or institution's comprehensive energy and water management plan.

(c) The comprehensive energy and water management plan described in Subsection (a)(2) shall be included in the five-year construction and major repair and rehabilitation plans for institutions of higher education as required by Section [61.0651](#), Education Code.

(d) Not later than January 15 of each odd-numbered year, the state energy conservation office shall submit a report to the governor and the Legislative Budget Board on the status and effectiveness of the utility management and conservation efforts of state agencies and institutions of higher education. The report

must include information submitted to the office from each state agency and institution of higher education. The office shall post the report on the office's Internet website.

Added by Acts 1987, 70th Leg., 2nd C.S., ch. 52, art. 2, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 612, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(45), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 698, Sec. 8, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 573, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1158, Sec. 28, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1398, Sec. 1, eff. Sept. 1, 2001. Redesignated from Government Code Sec. 447.011 and reenacted and amended by Acts 2003, 78th Leg., ch. 1310, Sec. 29, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1332 (S.B. 700), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 288 (S.B. 59), Sec. 1, eff. September 1, 2017.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. 800, 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 447.010. FUEL SAVINGS FOR STATE AGENCIES. (a) In this section and in Section 447.011:

(1) "Cost-effective" means resulting in fuel consumption reduction with a projected savings in fuel cost over a one-year period that exceeds the cost of purchasing and using a technology.

(2) "Fuel-saving technology" means a:

(A) device containing no lead metal that is installed on a motor vehicle or non-road diesel and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent;

(B) fuel additive registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour

of operation by at least five percent; or

(C) fuel registered in accordance with 40 C.F.R. Part 79 that contains no known mutagenic materials and that has been proven to reduce fuel consumption per mile or per hour of operation by at least five percent.

(3) "Motor vehicle" and "non-road diesel" have the meanings assigned by Section [386.101](#), Health and Safety Code.

(4) "Proven fuel-saving technologies" means technologies shown to reduce fuel use by at least five percent in:

(A) an Environmental Protection Agency fuel economy federal test protocol test performed at a laboratory recognized by the Environmental Protection Agency;

(B) a fuel economy test performed in accordance with protocols and at testing laboratories or facilities recognized by the state energy conservation office, the Texas Commission on Environmental Quality, or the Environmental Protection Agency; or

(C) a field demonstration performed in accordance with Section [447.011](#).

(b) A state agency with 10 or more motor vehicles or non-road diesels shall reduce the total fuel consumption of the vehicles or diesels by at least five percent from fiscal year 2002 consumption levels through the use of cost-effective proven fuel-saving technologies.

(c) A state agency may delay reducing fuel use as described in this section until a list of proven fuel-saving technologies is provided by the state energy conservation office as provided by Section [447.011](#).

(d) A state agency may not purchase or use as a fuel-saving technology a technology that:

(1) is known to increase oxides of nitrogen emissions or toxic air contaminants;

(2) may be reasonably concluded to degrade air quality or human health or to negatively impact the environment; or

(3) is known to affect negatively the manufacturer's warranty of a motor vehicle or a non-road diesel.

(e) A state agency may purchase cost-effective proven fuel-saving technologies out of the agency's fuel budget.

(f) A state agency shall competitively evaluate similar fuel-saving technologies.

(g) A state agency may require a seller of a fuel-saving technology to refund the cost of the technology if it is determined to be ineffective at reducing fuel use by at least five percent before the 91st day after the date the technology is first used by the agency.

(h) A state agency may use fuel-saving technologies that the agency determines are cost-effective and may use a fuel-saving technology in applications that provide other benefits, including emissions reductions.

(i) A state agency may establish a program for agency employees to voluntarily:

(1) purchase fuel-saving technologies; and

(2) document reductions in fuel savings and air emissions.

(j) A state agency shall annually report to the state energy conservation office on a form provided by the office on the state agency's efforts and progress under this section.

(k) This section does not apply to an institution of higher education as defined by Section [61.003](#), Education Code.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 5.01, eff. Jan. 11, 2004.

Sec. 447.011. FIELD DEMONSTRATIONS. (a) Under the direction of the state energy conservation office, the Texas Department of Transportation shall demonstrate the effectiveness of at least four fuel-saving technologies on a combined maximum of 100 motor vehicles or non-road diesels in accordance with this section to determine the fuel-saving technologies that may cost-effectively reduce fuel consumption and save state revenue.

(b) The Texas Department of Transportation shall select varying ages and types of motor vehicles and non-road diesels to demonstrate the fuel-saving technologies and shall give a preference to high-use motor vehicles and non-road diesels in the selection.

(c) The Texas Department of Transportation shall

demonstrate the performance of fuel-saving technologies by:

- (1) assessing a technology's performance in the normal course of operations of motor vehicles or non-road diesels; and
- (2) performing controlled field tests.

(d) In selecting the technologies to be evaluated, the state energy conservation office shall:

- (1) consult with governmental and business organizations that are currently using fuel-saving technology;
- (2) consider technologies that are proven fuel-saving technologies that have demonstrated fuel economy benefits of five percent or more in field tests or recorded use data of government organizations or businesses that operate fleets; and
- (3) determine whether each technology selected has the potential to be cost-effective.

(e) A fuel-saving technology may be disqualified from being demonstrated or used if it is known to reduce engine performance, reduce the life of the engine, require additional maintenance expenses, or degrade air quality.

(f) The Texas Commission on Environmental Quality, the Texas Transportation Institute, The University of Texas Center for Transportation Research, the University of Houston Diesel Emissions Center, or another agency may be designated to assist with executing the demonstration, compiling the results, estimating the potential average fuel savings of the technologies in different applications, or preparing a final report.

(g) On completing the demonstration described by this section the state energy conservation office shall rank the fuel-saving technologies based on their fuel savings, other cost savings, and overall cost-effectiveness. The office shall:

- (1) list recommended applications of the technologies;
- (2) document other negative or positive effects; and
- (3) prepare a concise report of these findings.

(h) The Texas Commission on Environmental Quality shall obtain information on any fuel-saving technology that appears to reduce particulate matter, oxides of nitrogen, carbon monoxide, or hydrocarbon emissions.

(i) The state energy conservation office shall provide the report prepared under Subsection (g) to each state agency with 10 or more motor vehicles or non-road diesels and to the Legislative Budget Board.

(j) The demonstration and associated reports described by this section shall be completed not later than January 1, 2005.

(k) All results of a demonstration project under this section shall be made public on the state energy conservation office's Internet website.

(l) The state energy conservation office shall provide quarterly an updated list of all proven fuel-saving technologies on its Internet website.

(m) Money from the state highway fund may not be used for the purchase, installation, maintenance, or operation of the fuel-saving technologies being assessed or subjected to controlled field tests under this section. Repairs to state equipment resulting from demonstrations of fuel-saving technologies must be paid from the same funds used to implement this section.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 5.01, eff. Jan. 11, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 28 (S.B. [527](#)), Sec. 7, eff. September 1, 2011.

Sec. 447.012. APPLIANCE STANDARDS. The state energy conservation office shall determine the feasibility and cost-benefit to consumers of setting appliance standards for appliances that are not currently regulated for energy efficiency in this state, if the office determines that the new standards would reduce the emission of air contaminants. The office may not consider the feasibility and cost-benefit to consumers of setting appliance standards for air conditioning systems under this section.

Added by Acts 2005, 79th Leg., Ch. 1095 (H.B. [2129](#)), Sec. 5, eff. September 1, 2005.

Sec. 447.013. ADVANCED CLEAN ENERGY PROJECT GRANT AND LOAN

PROGRAM. (a) In this section:

(1) "Account" means the advanced clean energy project account established under this section.

(2) "Advanced clean energy project" has the meaning assigned by Section 382.003, Health and Safety Code.

(3) "Program" means the advanced clean energy project grant and loan program established under this section.

(b) The advanced clean energy project grant and loan program is established to encourage the development of advanced clean energy projects in an environmentally protective manner. The program is administered by the State Energy Conservation Office.

(c) The advanced clean energy project account is an account in the general revenue fund.

(d) The account consists of:

(1) a sub-account in the account that consists of the proceeds of bonds issued under Subsection (j);

(2) revenues allocated to the account under Section 182.122, Tax Code;

(3) any amount appropriated by the legislature for the account;

(4) gifts, grants, and other donations received for the account; and

(5) interest earned on the investment of money in the account.

(e) Money in the account may be appropriated only to the State Energy Conservation Office to award grants or to make or guarantee loans under this section. The total amount of grants that may be awarded under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$20 million. The total amount of loans that may be made or guaranteed under this section in any state fiscal biennium from revenues described by Subsection (d)(2) may not exceed \$10 million.

(f) Before awarding a grant or making a loan under this section, the State Energy Conservation Office shall enter into a written agreement with the entity to which the grant is to be awarded or the loan is to be made. The agreement may specify that if, as of a date specified by the agreement, the entity has not used

the grant or loan for the purposes for which the grant or loan was intended, the entity shall repay the amount of the grant or the amount of the loan and any accrued interest, as applicable, under terms specified by the agreement.

(g) Under the program, the State Energy Conservation Office may award a grant to the managing entity of an advanced clean energy project in an amount not to exceed 50 percent of the total amount invested in the project by private industry sources. The managing entity of the project must provide any information considered necessary by the State Energy Conservation Office to determine whether the entity qualifies for the grant.

(h) Under the program, the State Energy Conservation Office may make or guarantee a loan to the managing entity of an advanced clean energy project in this state. If the loan or guarantee is to be funded by the proceeds of bonds issued under Subsection (j), the project must qualify for the loan or guarantee under Section 49-q, Article III, Texas Constitution.

(i) A recipient of a grant or loan under this section is encouraged to purchase goods and services from small businesses and historically underutilized businesses, as those terms are defined by former Section 481.191, as that section existed on January 1, 2015.

Added by Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. [3732](#)), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 364 (H.B. [2667](#)), Sec. 2, eff. September 1, 2015.